

THE HON'BLE MR JUSTICE S. ANANDA REDDY

WRIT PETITION NO: 17273 of 2005

DATED:05.08.2005

Between:

B. Nagaiah, Conductor, E.251286,

S/o.Ramaiah, aged about 39 years,

R/o.Narayanpet (Tq), Medak District.

.....PETITIONER

AND

1.The Regional Manager, APSRTC, Medak region,

Medak District and two others.

.....RESPONDENTS

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ORDER

This Writ Petition is filed by the petitioner aggrieved by the order passed by the third respondent, dated 30.6.1998, by which, the major penalty of withholding of annual increment for a period of two years with cumulative effect was imposed.

The grievance of the petitioner is that the said major penalty was imposed without conducting a regular departmental enquiry and therefore, the same is illegal and unsustainable. It is stated that as against the said order, the petitioner filed an appeal before the second respondent, and since the same was rejected, he filed a review petition before the first respondent on 15.3.2002, but so far, the reviewing authority did not pass any orders. Therefore, the petitioner has come up with the present Writ Petition.

At the time of hearing, the learned counsel for the petitioner stated that the impugned order of imposing major penalty without conducting a regular departmental enquiry is illegal and without jurisdiction in terms of the judgments of this Court as well as the Judgments of Supreme Court and therefore, sought to set aside the impugned order.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondent-Corporation.

Admittedly, the third respondent issued a charge sheet against the petitioner for certain alleged irregularities and the petitioner was directed to submit his explanation, to which, the petitioner submitted his explanation on 3.2.1998. Thereafter, the third respondent not satisfied with the explanation offered by the

petitioner, instead of conducting a regular departmental enquiry, passed impugned orders imposing a major penalty of deferment of annual increment of two years with cumulative effect and the said order is confirmed by the appellate authority and further, the review petition filed by the petitioner has not yet been decided by the first respondent.

In view of the settled legal position that a major penalty cannot be imposed without conducting a regular departmental enquiry, the impugned order is liable to be set aside. However, as the impugned order was passed as early as on 30.6.1998 this Court declines to set aside the order and restore the matter to the third respondent for fresh proceedings, but however, inclines to modify the punishment of major penalty to that of a minor penalty. Accordingly, the impugned order is modified imposing punishment of deferment of annual increment for a period of two years without cumulative effect. It is further made clear that as a result of the order passed by this Court, the monitory benefits, to which the petitioner is entitled, shall be only from the date of the order of this Court and for the period prior to the date of order of this Court, the petitioner is not entitled to the monitory benefits.

The Writ Petition is accordingly disposed of. No costs.

S. ANANDA REDDY,J

05th AUGUST, 2005

tsr.

